

in reference to the proposed by-law, does not object to irregularities.

I am of opinion that the appeal should be dismissed with costs.

BRITTON, J.:—After the best consideration I can give to this case, and after more than one perusal of the evidence, my conclusion is, that the judgment of Sutherland, J., cannot be disturbed; and I cannot usefully add anything to the reasons given by my brother Riddell, which I have had an opportunity of reading.

FALCONBRIDGE, C.J.:—I agree in the result.

DIVISIONAL COURT.

OCTOBER 28TH, 1911.

*KING v. NORTHERN NAVIGATION CO.

Negligence—Death of Person Falling into Open Hatchway of Vessel—Cause of Death—Absence of Direct Proof—Inference—Conjecture—Findings of Jury—Duty of Owners of Vessel to Trespasser—Termination of Period of Service—Licensee—Evidence.

Appeal by the defendants and cross-appeal by the plaintiff from the judgment of CLUTE, J., in favour of the plaintiff for the recovery of \$3,900 damages, upon the findings of a jury, in an action for the death of the plaintiff's husband by reason of the negligence of the defendants, as alleged.

The deceased had been employed by the defendants as engineer of one of their steamers, the "Ionic;" on the 7th March, 1911, his dead body was found in the hold of the "Huronic," another of the defendants' steamers, laid up for the winter at Sarnia alongside of the "Ionic," he having apparently fallen from the main deck through the hatch.

The following were the questions put to the jury and their answers:—

1. Were the defendants guilty of negligence which caused the death of William King? A. Yes.

2. If so, what was the negligence? A. The hatchway unprotected.

*To be reported in the Ontario Law Reports.